

ticket cases, that kind of thing. It all devolves upon the legislature in this particular area, subject, of course, to the overriding decisions that the courts might make as to what is or what is not a petty offense based upon the law of England. So I think, in other words, it would be a restrictive amendment and it would cover things that I cannot foresee and I suggest that probably you cannot either.

THE CHAIRMAN: Delegate Case only has one more minute. There are two others desiring to ask questions. The Chair will permit one question each.

Delegate Chabot.

DELEGATE CHABOT: Delegate Case, would an offense for which one could be imprisoned be a petty offense under this?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: The case that I quoted to you, the Glenn case, did involve a prison. Generally speaking, the line for the definition of a petty offense has been drawn at a maximum of six months, although there is no definitive definition of the term. The case in the Supreme Court that I quoted to you was for that period of time.

THE CHAIRMAN: Delegate Macdonald.

DELEGATE MACDONALD: Delegate Case, is this a term of art? Do we have a definite line between offenses which are petty offenses and those which are not?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: It is a word of art and the line is drawn by the court based upon the common law of England.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Delegate Case, could the legislature in the future establish some new crime and say there shall not be a right to trial by jury?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Not if it were anything other than, under this amendment, a petty offense.

THE CHAIRMAN: Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, ladies and gentlemen of the Committee, Delegate Case presented me with this question and problem before today's meeting. Frankly, perhaps I am a little bit confused and I remind myself of a certain French girl that applied for a job as an airline hostess. Because some of you may

be confused permit me a moment to tell you about her. She applied for the job and passed all of the tests. When she got completely finished, she had successfully passed them all. Then the personnel director said there is just one more problem we are going to put to you and you have got to give us the answer. He said, you are on an airliner with a hundred men and you are going overseas. Suddenly the motors conk out and you find yourself making a forced landing in the ocean. The first thing you know you end up on a desert island with 100 men. Now, what would you do? When she looked a little bit confused the personnel director said, "don't you understand the question?" "Oui," she replied, I understand the question, but what is ze problem?

Frankly, ladies and gentlemen, I do not think there is a problem here. We adopted the concept contained in the language of the three sections of the Maryland Declaration of Rights, including Article 5, which is what Mr. Case refers to. We specifically considered the language which provides that the inhabitants of Maryland are entitled to the common law of England and trial by jury in the common law courts in accordance with that law. We also considered Article 21 which says that in all criminal prosecutions every man has the right to be informed, and to have a speedy trial by an impartial jury without whose unanimous consent he should not be found guilty. Article 23 refers to due process of law. Mr. Case quoted a particular case—and I do not mean to doubt his accuracy in reporting it—but in that case the judge considered all three of these sections of the Declaration of Rights and did make the point that there are some cases, many cases, that are not tried by a jury. However, the United States Constitution has the same provisions. I do not see where there is any particular problem. In Maryland we have a statute which provides for magistrate trials, in which before a person can be tried, and I will read it to you: "provided, however, the accused, when brought before any such trial magistrate, or being informed by him of his right to trial by jury, freely elects to be tried before such trial magistrate, and provided, further, that a jury trial be not prayed in such case on the part of the State by the State's Attorney."

Today any person brought before a trial magistrate is entitled to a trial by jury if he so wants.

I think putting in this language will not help the situation. I certainly do not think we want to change the current status of the law. I believe that what we have said un-